

REMARKS/ARGUMENTS

Claims 4-6, 8, 10-11, 14-16, 18, 20 and 53 remain pending in the application with the present amendments. In the final Office Action, the Examiner rejected all of the pending claims under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,505,160 to Levy et al. ("Levy") (all claims except 4, 14), or as being obvious over Levy in view of U.S. Patent No. 6,574,609 to Downs et al. ("Downs") (claims 4, 14). For the reasons set forth below, applicant respectfully requests reconsideration and withdrawal of the rejections made by the Examiner.

As recited in presently pending independent claim 53, a content distribution system includes a distribution apparatus and a monitoring apparatus.

The monitoring apparatus is operable to issue authentication information including a) time identification information indicating a time of issuing the authentication information and b) distributor identification information assigned to the distribution apparatus. The monitoring apparatus is also operable to monitor a content distribution operation carried out by the distribution apparatus.

The distribution apparatus is the element of the system for use in distributing the content. Specifically, the distribution apparatus is operable to distribute the content to one or more receivers together with the authentication information received from the monitoring apparatus, and is also operable to store a distribution history including the authentication information.

In addition, the monitoring apparatus is also operable to determine a validity of the content distribution operation based on the time identification information. Based on the distribution history, the monitoring apparatus is also operable

to determine a distribution status.

In order to establish *prima facie* anticipation of a claim, all elements of the claim must be present, i.e., taught by a single reference. This is clearly lacking in the instant case. As set forth in the following, applicant submits that the recitations of claim 53 are neither taught nor suggested by *Levy*.

Levy, as best shown in FIG. 1 thereof, merely describes a content distribution system in which content is distributed with an identifier, the identifier optionally being a "distributor ID" (e.g., col. 3, lns. 30-31). Referring to FIG. 1 of *Levy*, an identifier ("ID") is obtained from the block marked "Registration Process" by an "Embedding Process" in a block of FIG. 1 marked as such. (col. 3, ln. 65 through col. 4, ln. 6). Content marked with such ID is then distributed via a "Distribution Process" to a player, tuner, decoder of a receiver, which has a "Decoding Process" in a block marked the same. (col. 4, lns. 22-32).

However, *Levy* neither teaches nor suggests that the distributor ID is distributed as *authentication data*. The distributor ID is provided to a receiver so that the receiver can access "metadata" related to the distributed content. For example, the receiver can use the identifier received with music content to access a song title, lyrics and/or artist information (col. 2, 46-53). *Levy* neither teaches nor suggests that the distributed identifier is authentication data or has any use in authenticating something.

In addition, *Levy* neither teaches nor suggests that time identification information is distributed together with the content. The passages of *Levy* at col. 12, lns. 51-65 and col. 13, lns. 15-20, cited by the Examiner, do not specify that the "play time" or "time stamp" is distributed together with the content to a receiver. Rather, the implication of the passages

is that they are not. The passage at col. 13 refers to the "time stamp" as functioning "to inform the user when they were captured," i.e., received by the decoding process, as opposed to when distributed by a distribution device. Other passages in *Levy* indicate that only the *receiver* of the content is operable to issue a timestamp, not a *monitoring apparatus* involved in distributing the content to the receiver, as recited in claim 53. In the system described in *Levy*, the content receiver presents the identifier received with the content together with the timestamp generated in the receiver to a server in order to obtain metadata from a server. As described in *Levy*, the timestamp is **not** distributed or sent together with any content. Nor does a distribution apparatus distribute such timestamp. Rather, the timestamp is only added by a "decoding process" in the content receiver (e.g., "Comm. Applic." within the box marked "Decoding Process" in FIG. 1) (col. 4, lns. 43-48; col. 10, lns. 53-62; col. 3, lns. 37-48) and then provided with the identifier to another device (e.g., "Server 1"; FIG. 1). The timestamp is then used with the identifier by the other device (Server 1) to obtain and return the meta data related to the content.

Moreover, *Levy* clearly neither teaches nor suggests a monitoring apparatus as recited in claim 53. *Levy* neither teaches nor suggests a monitoring apparatus which has the functions recited in claim 53 of: *issuing authentication information; operable to monitor a content distribution operation; determining a validity of the content distribution operation; and determining a distribution status.* Nor does *Levy* teach or suggest such functions being performed at all within the distribution system described therein. At best, *Levy*, at col. 14, lns. 26-33 merely describes the logging of information by servers regarding requests for related information, e.g., metadata, such requests made in accordance with the above-

described process. Referring to FIG. 1, Levy neither teaches nor suggests that any of the processes shown in the respective blocks therein, whether considered individually or collectively, perform the functions as recited in claim 53.

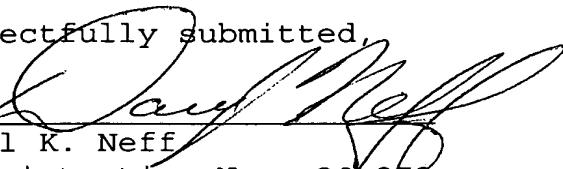
Independent claim 11 to a method contains recitations similar to those of claim 53 as to operations performed in accordance with the claimed method. Accordingly, applicant submits that claim 11 is also allowable over Levy at least on the basis set forth above. The remaining pending claims are respectfully submitted to be allowable at least based on their dependency from claim 53 or claim 11. In addition, since, as described above, Levy neither teaches nor suggests the recording of distribution history regarding content distributed within the system, it follows that Levy neither teaches nor suggests elements as specifically recited in claims 8, 10, 18 and 20.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 27, 2005

Respectfully submitted,

By 
Daryl K. Neff

Registration No.: 38,253
LERNER, DAVID, LITTENBERG,
KRUMLHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

560769_1.DOC